

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
IN RE: Chapter 11
Case No. 01-01139(JFK)
W.R. GRACE & CO., ET AL.,
Debtors.
-----X

DEPOSITION OF FRANCO SEIF
New York, New York
Monday, March 26, 2007

Reported by:
AYDIL M. TORRES
JOB NO. 1-524

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March 26, 2007
11:15 a.m.

Deposition of FRANCO SEIF,
held at the offices of Hahn &
Hessen, LLP, 488 Madison Avenue,
New York, New York, pursuant to
Notice, before AYDIL M. TORRES, a
Notary Public of the State of
New York.

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STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing,
sealing and certification be and the
same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the
form of the question shall be reserved
to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
and sworn to before any officer
authorized to administer an oath, with
the same force and effect as if signed
and sworn to before the Court and that a
copy of this examination shall be
furnished without charge to the attorney
representing the witness testifying
herein.

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APPEARANCES:

HAHN & HESSEN, LLP
Attorneys for Franco Seif
488 Madison Avenue
New York, New York 10022
BY: STEVEN J. MANDELSBERG, ESQ.

REED SMITH, LLP
Attorneys for Debtor
435 Sixth Avenue
Pittsburgh, PA 15219
BY: TRACI S. REA, ESQ.

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FRANCO SEIF,
called as a witness, having been
duly sworn by a Notary Public, was
examined and testified as follows:

EXAMINATION BY

MS. REA:

Q. Good morning, Mr. Seif. My name is
Traci Rea and I represent the debtors in this
bankruptcy proceeding.

Can you please state your full name
for the record?

A. First name Franco. F-R-A-N-C-O.
Last name is Seif. "S" as in Sam, E-I-F as
in Frank.

Q. Mr. Seif, have you been deposed
before?

A. Yes.

Q. On approximately how many
occasions?

A. Probably over twenty times.

Q. In connection with what types of
proceedings?

A. Lawsuits, defendant, plaintiffs.

These types of proceedings. I'm not sure

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1 Franco Seif

2 exactly what kind of —

3 Q. What types of claims were at issue
4 in those lawsuits?

5 Do you recall?

6 A. A couple of them were related to
7 asbestos. Some of them were related to mold.

8 Q. So you're fairly familiar with the
9 deposition process. We have a court reporter
10 here who is going to be taking down
11 everything that we say.

12 So I would ask that you respond
13 verbally and that you keep your voice up so
14 that she can hear everything?

15 Also, I would ask that you wait
16 until I finish a question before you answer,
17 and I will try to do the same thing so the
18 record is nice and clear. If you have any
19 questions about one of my questions, please
20 let me know and I'm happy to clarify it.

21 If you need to take a break at any
22 time, we're happy to do that as long as there
23 is not a question pending.

24 Okay?

25 A. Yes.

1 Franco Seif

2 MS. REA: Do you have that,
3 Steve, that I can look at or...

4 MR. MANDELSBERG: I believe
5 the CV and other documents you're
6 referring to are in the report of
7 Mr. Seif and his firm, dated
8 January 11, 2007 that have already
9 been produced.

10 Q. The CV that you brought today is no
11 different than the one that was attached to
12 your report?

13 A. It shouldn't be.

14 Q. Okay.

15 Did you bring copies of the
16 material that you considered or relied upon
17 in drafting your expert report?

18 A. Yes.

19 MS. REA: Do we have copies
20 of those, Steven?

21 MR. MANDELSBERG: I believe
22 the material is incorporated in the
23 expert report. You can certainly
24 ask Mr. Seif those questions.

25 Q. Mr. Seif, did you bring any

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2 (A Notice of Deposition was
3 marked as Exhibit 1, for
4 identification, as of this
5 date.)

6 Q. I want to give you what has been
7 marked as Exhibit 1 (handing).

8 Have you seen that document before?

9 A. (Witness examines Exhibit 1.)

10 No.

11 Q. Mr. Seif, this is a Notice of
12 Deposition for your deposition here today,
13 and as you can see from this Notice it asks
14 that you bring with you the documents that
15 are attached as Exhibit A.

16 Did you bring any documents with
17 you today?

18 A. Yes.

19 Q. What documents did you bring?

20 A. I brought the documents related to
21 this claim.

22 Q. Did you bring a copy of a current
23 CV?

24 A. Yes.

25 Q. Okay.

1 Franco Seif

2 documents in addition to your expert report
3 with you today?

4 A. Yes.

5 Q. Could you tell me where those
6 documents are?

7 A. In this office. Here in this room.

8 MS. REA: We can go off the
9 record for just a minute.

10 (Whereupon, a discussion was
11 held off the record.)

12 MR. MANDELSBERG: In
13 response to the request for
14 documents in connection with the
15 Deposition Notice, which I think
16 was served on counsel for the State
17 of California, not on Mr. Seif
18 personally, Mr. Seif has brought
19 with him documents related to his
20 expert report, which may also
21 include documents that are in the
22 expert report, and it consists of
23 several folders relating to the
24 buildings identified in the expert
25 report, an invoice for professional

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1 Franco Seif
2 services, and a copy of the
3 hazardous materials survey that I
4 believe is identified in his report
5 as among the items he's reviewed or
6 relied upon.

7 MS. REA: Thank you very
8 much.

9 MR. MANDELSBERG: The record
10 should reflect that the documents I
11 just generally described have been
12 handed over to counsel for the
13 debtors.

14 MS. REA: And I would just
15 like to mark this as a collective
16 exhibit, if that's okay, so we can
17 get a copy and have this on the
18 record as to what has been
19 produced.

20 Are there any objections to
21 that?

22 MR. MANDELSBERG: No, I
23 don't believe -- the only caveat I
24 have is I -- we will do that, and
25 go through it. I don't believe

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1 Franco Seif
2 2 that we've just marked does not
3 include that copy of the expert
4 report.

5 MS. REA: Okay. Thank you.

6 Q. And Mr. Seif, to avoid going
7 through these document by document, can you
8 tell me if there are any notes from you in
9 this stack of documents relating to your
10 expert report?

11 A. There are -- there should be some
12 observations that I made while walking the
13 buildings that I took some notes, yes.

14 Q. Would there be any correspondence
15 or other document reflecting communications
16 between yourself and any other experts that
17 have been retained in this litigation, to
18 your knowledge?

19 A. No.

20 MR. MANDELSBERG: Objection.

21 Q. Mr. Seif, could you briefly outline
22 for me your educational background?

23 A. I have a Bachelor's of Science
24 Degree in Civil Engineering.

25 Q. Okay.

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2 that there is anything in here that
3 is attorney work product or
4 attorney/client privileged. If it
5 is, it will be separated out and
6 identified in a log, but I don't
7 think there is any.

8 MS. REA: Okay.

9 MR. MANDELSBERG: So this
10 will be -- the prior one was
11 Exhibit 1?

12 MS. REA: Right.

13 MR. MANDELSBERG: Yes, so
14 this would be Exhibit 2.

15 MS. REA: Yes.

16 (Documents were marked as
17 Exhibit 2, for
18 identification, as of this
19 date.)

20 MR. MANDELSBERG: The
21 witness also presented, in response
22 to the question, materials --
23 brought with him and presented a
24 copy of the expert report, which
25 is, so that it's clear, the Exhibit

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2 A. And I have my Asbestos
3 Certifications from the EPA.

4 Q. Your Civil Engineering Degree, was
5 from what university?

6 A. Northeastern University.

7 Q. What year did you obtain that?

8 A. 1987.

9 Q. And your asbestos certifications,
10 what year were those obtained?

11 A. Started 1987.

12 Q. Did you obtain any asbestos
13 certifications in 1987?

14 A. I started taking the classes in
15 1987, or it could be early 1988.

16 Q. When did you actually obtain the
17 certification; do you recall?

18 A. There was a series of classes that
19 you had to take. It may have started at the
20 end of 1987 and continued up to 1988.

21 Q. After you obtained your Bachelor's
22 of Science in Civil Engineering in 1987, what
23 was your first professional position after
24 that?

25 A. In the environmental industrial

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1 Franco Seif
 2 hygiene industry related to start working
 3 with asbestos.
 4 Q. What firm did you work with?
 5 A. I worked with a company in
 6 Los Angeles called EPI Center.
 7 Q. Did you start with them in
 8 approximately 1987?
 9 A. Yes.
 10 Q. What was your position at that
 11 company?
 12 A. I started as a Junior Civil, Junior
 13 Civil Engineer.
 14 Q. What were your duties, generally,
 15 as a Junior Civil Engineer?
 16 A. Conducting asbestos inspections in
 17 buildings, schools, houses, writing
 18 reports --
 19 Q. Okay.
 20 A. -- from these inspections, writing
 21 management plans for schools, designing
 22 asbestos abatement projects, and I also did
 23 indoor air quality studies.
 24 Q. What does that entail, indoor air
 25 quality studies?

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1 Franco Seif
 2 A. At that time, we did testing and
 3 sampling for radon, carbon dioxide --
 4 Q. How about asbestos?
 5 A. And asbestos, of course.
 6 Q. So in the 1987 time period when you
 7 were a Junior Civil Engineer, one of the
 8 things you did was air sample testing for
 9 asbestos in buildings; is that right?
 10 A. I also did air testing, sure.
 11 Q. Okay.
 12 How long did you stay with that
 13 company, EPI Center?
 14 A. Until late '89 or early 1990,
 15 around that time.
 16 Q. Where did you go from there?
 17 A. From there, I started my own
 18 business.
 19 Q. Which is called?
 20 A. At that time, it was called
 21 California Environmental Consultants.
 22 Q. Did you have any partners in that
 23 business?
 24 A. No.
 25 Q. By yourself when you started?

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1 Franco Seif
 2 A. Yes.
 3 Q. What did your business do?
 4 A. Exactly what I used to do with EPI
 5 Center.
 6 Q. Is that essentially the same
 7 business that you have today?
 8 A. It has evolved into what it is
 9 today, sure.
 10 Q. Today the name of your business is?
 11 A. Clark Seif Clark, and the "Seif" is
 12 me.
 13 Q. And you have partners?
 14 A. Yes.
 15 Q. Two Clarks?
 16 A. Yes.
 17 Q. Two partners?
 18 A. Yes.
 19 Q. And so today, what types of
 20 consulting services do you provide?
 21 A. Of course, we still provide
 22 asbestos consulting, lead-based paint
 23 consulting, indoor air quality consulting,
 24 general industrial hygiene consulting, health
 25 and safety consulting, Phase 1, Phase 2

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 2 environmental site assessments.
 3 Q. Okay?
 4 A. Hazardous waste site
 5 characterization.
 6 Q. The asbestos consulting that you're
 7 doing today, that's the same type of work
 8 that you did starting in 1987; is that right?
 9 A. Yes.
 10 Q. I notice that behind your name
 11 there are several different letters.
 12 Could you tell me what those are?
 13 P-E for one is?
 14 A. P-E. I'm a Registered Civil
 15 Engineer within the State of California.
 16 Q. And I believe another set of
 17 letters was C-A-C.
 18 A. C-A-C stands for CAL-OSHA Asbestos
 19 Consultant.
 20 Q. What is that?
 21 A. In California on top of being
 22 certified by the Environmental Protection
 23 Agency, they have their own State
 24 certification that you have to obtain before
 25 you begin to act as a consultant. So we have

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1 Franco Seif
 2 to take asbestos examination that are put
 3 together by the California OSHA, and if you
 4 pass, you become a consultant.
 5 Q. When did you obtain that
 6 designation?
 7 A. I know I started in 1991. Probably
 8 a year or so after that, maybe. I really do
 9 not recall.
 10 Q. The last set of letters I noticed
 11 was R-E-A.
 12 Can you tell me what that is?
 13 A. R-E-A stands for Registered
 14 Environmental Assessor.
 15 Q. What does that entail?
 16 A. Also, it is a California
 17 registration that is provided or offered by
 18 the California Environmental Protection
 19 Agency, and you become registered to perform
 20 environmental site assessments.
 21 MR. MANDELSBERG: Off the
 22 record.
 23 (Whereupon, a discussion was
 24 held off the record.)
 25 Q. When did you obtain that

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1 Franco Seif
 2 Mr. Connor?
 3 MR. MANDELSBERG: Objection.
 4 About the engagement or
 5 speak to him in any way?
 6 MS. REA: Yes, about the
 7 engagement.
 8 A. It had to be the first or second
 9 week of December of 2006.
 10 Q. What were you hired to do?
 11 A. I was hired to render an opinion to
 12 the friability of the fireproofing material
 13 that existed in the few State buildings.
 14 Q. Had you worked with Mr. Connor
 15 before this engagement?
 16 A. Yes.
 17 Q. When did you first work with
 18 Mr. Connor?
 19 A. Our company has been working for
 20 the State as a consultant for three years,
 21 and during these, you know, that three-year
 22 period we've been engaged in one project with
 23 Mr. Connor. Specifically, the dates, I do
 24 not know.
 25 Q. What was the nature of that

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1 Franco Seif
 2 designation?
 3 A. I do not recall.
 4 Q. Okay.
 5 A. In the early '90s, I know.
 6 Q. That's fine.
 7 Mr. Seif, who hired you to prepare
 8 your expert report in this proceeding?
 9 A. The State of California, Department
 10 of General Services.
 11 Q. Who contacted you for the scope of
 12 this work?
 13 A. A person by the name of Glenn
 14 Connor.
 15 Q. What is Mr. Connor's position?
 16 A. Exact position, I do not know. I
 17 know he is some type of a project manager of
 18 some sort.
 19 Q. Do you know if he is with the State
 20 of California, Department of General
 21 Services?
 22 A. Yes, I know.
 23 Q. He is with them?
 24 A. Yes.
 25 Q. When did you first speak with

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1 Franco Seif
 2 project?
 3 A. That project involved the
 4 inspection and conducting assessments on
 5 several State buildings for asbestos.
 6 Q. Was that also for litigation?
 7 A. No.
 8 Q. Do you know what the purpose of
 9 that report was for?
 10 A. The State, apparently, they keep
 11 records of the asbestos material in their
 12 buildings as part of their management
 13 planning, the condition of the asbestos
 14 containing material in their buildings as
 15 part of the management planning, something
 16 that they have to do every three years.
 17 Q. If we can go back to this
 18 engagement, you said that you were engaged to
 19 determine the friability of asbestos in
 20 various buildings; is that correct?
 21 A. Correct.
 22 Q. Did that include any sort of
 23 assessments of the risks of exposure to that
 24 asbestos?
 25 A. No.

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1 Franco Seif
 2 Q. So you were just to determine
 3 whether or not asbestos containing material
 4 in these buildings was friable; is that
 5 correct?
 6 A. Correct.
 7 Q. You were retained, you said, in
 8 December of 2006.
 9 What did you do during that time
 10 period, from 2006, early part of 2007?
 11 A. I don't understand.
 12 What do you mean, what did I do?
 13 Q. Well, you said you were first
 14 contacted in 2006, the end of 2006.
 15 I'm just trying to get a sense of
 16 after you were contacted, did you start work
 17 immediately, what did you do?
 18 A. Initially, we tried to get in touch
 19 with the property manager to get access to
 20 some of these buildings.
 21 Q. Okay.
 22 A. That was the first order of work.
 23 Q. And the reason I ask, it seems from
 24 your report that the actual inspections that
 25 you did were in January of 2007; is that

1 Franco Seif
 2 Q. Other than reviewing those reports,
 3 did you have any other role in the
 4 preparation of the MVA reports?
 5 A. I did not have any.
 6 Q. How much was your bill for your
 7 work on this project?
 8 A. I brought the bill with me.
 9 Q. Okay.
 10 A. A little over \$23,000.
 11 Q. Okay.
 12 MR. MANDELSBERG: The record
 13 should reflect the witness was
 14 referring to a portion of Exhibit
 15 2.
 16 Q. Mr. Seif, can you tell me, what did
 17 you do today to prepare for this deposition?
 18 A. I met with my Mr. Steve.
 19 THE WITNESS: I'm sorry,
 20 Steve. I forget your last name.
 21 MR. MANDELSBERG: Mandelsberg.
 22 Q. Did you meet with him this morning?
 23 A. Yes.
 24 Q. Did you meet with anyone else this
 25 morning with Mr. Mandelsberg?

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 2 correct?
 3 A. Yes.
 4 Q. What did you do in between January
 5 of -- well, you were hired, you said, in
 6 December of 2006; is that correct?
 7 A. Yes.
 8 Q. After you were hired to when you
 9 first inspected the buildings, what sort of
 10 lead work, if any, did you do?
 11 MR. MANDELSBERG: Objection.
 12 Other than to get access to
 13 the buildings?
 14 MS. REA: Right.
 15 MR. MANDELSBERG: Objection.
 16 A. I reviewed the MVA reports that
 17 were sent to me.
 18 Q. So those reports were generated
 19 before you inspected the buildings?
 20 A. I recall they were.
 21 Q. Other than reviewing those reports,
 22 did you have any other role in the
 23 preparation of those reports?
 24 A. I'm sorry.
 25 Could you repeat?

1 Franco Seif
 2 A. Yes.
 3 Q. Who is that?
 4 A. Christina Kang (phonetic).
 5 Q. How long did you meet with
 6 Mr. Mandelsberg and Ms. Kang?
 7 A. From 9:00 to 11:00.
 8 Q. What did you discuss in this
 9 meeting this morning?
 10 MR. MANDELSBERG: Objection.
 11 Don't answer.
 12 MS. REA: Sorry?
 13 MR. MANDELSBERG: Objection.
 14 Don't answer. It's
 15 privileged.
 16 MS. REA: Are you
 17 representing Mr. Seif?
 18 MR. MANDELSBERG: We are
 19 representing the State and he has
 20 been engaged on behalf of the State
 21 and on behalf of counsel as an
 22 expert. So you're asking him what
 23 was discussed between counsel as
 24 for privileged information.
 25 MS. REA: And the

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1 Franco Seif
2 attorney/client privilege would
3 apply with respect to a client and
4 an attorney.

5 Is Mr. Seif your client?

6 MR. MANDELSBERG: The
7 attorney/client privilege would
8 apply to an expert retained by or
9 at the request of counsel to assist
10 in rendering an expert report.

11 MS. REA: I disagree,
12 Mr. Mandelsberg, but we will
13 reserve the right to reask that
14 question, if we need to, when the
15 time comes.

16 Q. Mr. Seif, did you review any
17 documents this morning?

18 A. No.

19 MS. REA: Mark this as
20 Exhibit 3.

21 And Mr. Mandelsberg, this is
22 the report of Mr. Seif. I did not
23 bring another copy, but I would
24 like to mark this one.

25 (A report was marked as

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1 Franco Seif
2 report with exhibit tabs and which
3 included cover photographs and what
4 has been marked as Exhibit 3
5 appears to be a copy of that.

6 MS. REA: That's correct.

7 Would you rather we mark an
8 original?

9 MR. MANDELSBERG: No, it
10 doesn't matter. I'm just noting
11 that that's not what was actually
12 produced. We do have a copy of an
13 original with the color photos,
14 with the tabs. It may be easier
15 for Mr. Seif to look at that and
16 find documents if you're going
17 to identify specific pages.

18 MS. REA: Okay.

19 MR. MANDELSBERG: Which I
20 don't see are Bates numbered.

21 MS. REA: If we run into a
22 problem, we can switch problems. I
23 think we will because I think the
24 questions will be straightforward
25 based on that copy. But you're

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1 Franco Seif
2 Exhibit 3, for
3 identification, as of this
4 date.)

5 Q. Mr. Seif, can you please identify
6 what has been marked as Exhibit 3?

7 A. The cover page appears to be the
8 expert report that I prepared.

9 Q. Okay.

10 You can flip through it briefly,
11 but I will represent to you that that is your
12 expert report. If you see anything in there
13 that's not, please let me know.

14 A. Just let me review and make sure
15 that all the pages are here of the body of
16 the report.

17 Q. Absolutely. Take your time.

18 A. It appears that most -- all the
19 exhibit are here.

20 Q. Can you keep that in front you?

21 MR. MANDELSBERG: The record
22 should reflect that what was
23 actually produced to counsel for
24 the debtors is Mr. Seif's expert
25 report was actually an original

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1 Franco Seif
2 right, it's a black and white copy
3 of the original.

4 Q. Mr. Seif, can you please tell me
5 what you did to prepare this report?

6 A. I reviewed the documents I
7 mentioned earlier, and the documents I
8 reviewed are listed in my report, by the way,
9 and then I visited the buildings that I
10 referenced in my report and did a visual
11 inspection on visiting these buildings.

12 Q. If you can turn to Page 9 of your
13 report, it should state there "documents
14 reviewed."

15 Do you see that?

16 A. Yes.

17 Q. Are those the documents that you
18 reviewed in order to prepare this report?

19 A. Not to prepare the report, but just
20 to see the work that had already been
21 prepared for this case. So it kind of gave
22 me an idea to what other work related to
23 these buildings relating to asbestos others
24 have done that could help me or give me an
25 idea to what is going on in these buildings.

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Q. Did you review any documents relating to these buildings that are not listed on Page 9 of your report?

A. No.

Q. Did you review the material that these claimants have submitted in the bankruptcy proceeding to support their claim?

MR. MANDELSBERG: Objection.

You mean other than the MVA reports?

MS. REA: Yes.

A. I'm not really clear to what documents you're relating to. That means I did not.

Q. Have you seen claim forms submitted by California Department of General Services in the bankruptcy?

A. You want to show me an example?

Q. Sure. This is an example. I'm not going to mark it, but this is an example of a claim form (handing).

Have you seen documents like that?

A. (Witness examines document.)

No.

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Q. Mr. Seif, who wrote the report?

A. I did.

Q. Did you have any drafts of this report?

A. I don't have any drafts.

Q. Did you discuss this report with counsel before it was finalized?

MR. MANDELSBERG: You can answer that yes or no.

A. Yes, yes.

Q. Did you make any changes to the report as a result of any discussion with counsel?

A. I may have changed some grammatical mistakes.

Q. Okay.

You say in your report that you relied upon the Asbestos Hazard Emergency Act of 1986; is that correct?

A. Yes.

Q. 6.4 in your documents relied on. What, generally, does that act provide?

A. That act provides for the rules and

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Q. I can have it back.

Other than the MVA testing that you have already referenced, did you see any other asbestos survey or asbestos testing with respect to the buildings that are the subject of the report?

A. As I stated on Page 9 of my expert report document, I reviewed a survey that was performed by a company called Kleinfelder, and that was for building 714 "P" Street, another supplemental report for that same building, prepared by the same consulting firm, and an updated asbestos survey again by same firm for another address that I visited, which is the 744 "P" Street --

Q. Okay.

A. -- Tower.

Q. Do you know if there were any earlier asbestos surveys done for these buildings?

A. I do not know.

Q. So you didn't see any surveys on these buildings in the 1980s time frame?

A. I did not see.

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regulations under which -- actually, it was drafted to ensure that school buildings are surveyed for asbestos and that management plans are submitted to the government of each state as they relate to the asbestos hazard in each building.

Q. When did you become aware of that act?

A. Soon as I became involved in the asbestos industry back in '87.

Q. So around 1987?

A. Yes.

Q. So, Mr. Seif, you have almost twenty years experience in this asbestos area.

Can you tell me what you mean by the term "fireproofing"?

A. Fireproofing is a material that is applied to steel structures in buildings to allow lead time from the time a fire starts to the building begins to melt.

Q. Is that something different from acoustical plaster?

A. Acoustical plaster is the

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2 terminology that's used to allow for the
3 transfer of the noise from one area to the
4 other. That's the word acoustical.

5 Q. Are the two materials different?

6 A. It depends on where they are
7 applied and how they are applied, but they
8 should be different.

9 Q. Where is acoustical plaster
10 normally applied?

11 A. Acoustical plaster mostly is
12 applied inside of an apartment building, that
13 I have seen, or in office buildings.

14 Q. Do you understand that fireproofing
15 is normally applied directly to steel beams
16 of the structure?

17 MR. MANDELSBERG: Objection.

18 You can answer, if you
19 understand.

20 A. In most cases it is applied to
21 steel beams, yes.

22 Q. Have you ever seen fireproofing
23 painted?

24 A. No.

25 Q. Have you ever seen acoustical

1 Franco Seif

2 fireproofing applied to steel, and you
3 noticed in some of these inspections that
4 there are some overspray, for example.

5 Have you seen that sort of
6 overspray in other buildings that you've
7 inspected?

8 A. Yes.

9 MR. MANDELSBERG: Objection.

10 Q. You saw that over the course of
11 your career for twenty-some years?

12 A. Yes.

13 Q. You also talk about fireproofing
14 material that's dislodged from the
15 fireproofing.

16 Have you seen that as well in your
17 twenty years experience?

18 A. Yes.

19 Q. Is that fairly common to see that
20 sort of dislodged material?

21 A. Yes.

22 Q. How long would that debris and that
23 dust have been in the building?

24 MR. MANDELSBERG: Objection.

25 A. I do not really understand what you

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2 plaster painted?

3 A. Yes.

4 Q. Have you ever heard of acoustical
5 plaster being called fireproofing?

6 A. No.

7 Q. You said before that you started
8 doing this around 1987; is that correct?

9 A. Yes.

10 Q. Have you inspected buildings with
11 fireproofing applied to steel beams and steel
12 decking in the course of that, approximately,
13 twenty years?

14 A. Yes.

15 Q. Here you inspected some buildings
16 with that fireproofing; is that right?

17 A. Yes.

18 Q. Is what you observed in these
19 buildings any different than what you've seen
20 in other buildings in the twenty years of
21 your experience?

22 MR. MANDELSBERG: Objection.

23 A. Just break it down. Let me know
24 exactly what you mean.

25 Q. For example, you talked about

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2 mean by how long has it been in the building.

3 Q. You noted, for example, that there
4 was debris and dust that had settled on tiles
5 in the space in between the ceiling and the
6 fireproofing.

7 Do you recall that?

8 A. Yes.

9 Q. How long would that debris and dust
10 have been located where it had settled?

11 MR. MANDELSBERG: Objection.

12 A. I don't know.

13 Q. Could it be as long as shortly
14 after the fireproofing was applied?

15 MR. MANDELSBERG: Objection.

16 A. I don't think so. Based on my
17 experience, you don't apply fireproofing
18 while -- after you install your dropped
19 ceiling or your acoustical tile ceiling.

20 Q. Okay.

21 Could it be there shortly after
22 application, a year after application?

23 MR. MANDELSBERG: Objection.

24 A. It could be.

25 Q. Now, you say in your report, you

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 2 claim that vibration in the building caused
 3 fiber release.
 4 How long have you had that opinion?
 5 A. How long have I --
 6 MR. MANDELSBERG: Objection.
 7 You can answer if you
 8 understand.
 9 A. How long have I had this opinion?
 10 Q. Uh-huh.
 11 A. The first class that I took about
 12 asbestos.
 13 Q. Okay.
 14 So that was around 1987/'88?
 15 A. Yes.
 16 Q. Have you told building owners that
 17 vibration can cause fiber release?
 18 A. Yes.
 19 Q. Would you say that's fairly common
 20 knowledge?
 21 A. To whom? I'm sorry. I mean, it's
 22 not common knowledge. I mean, you have to be
 23 -- you have to tell somebody. If you're not
 24 in the asbestos industry, you wouldn't know.
 25 You have to be told.

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1 Franco Seif
 2 Q. In the asbestos industry, would you
 3 say that's fairly common knowledge since
 4 1987?
 5 A. Since the rule was written, yes.
 6 Q. You've told building owners in
 7 buildings that you've inspected that that's
 8 the case; is that correct?
 9 A. If we are conducting assessments,
 10 yes.
 11 Q. You said you tested for asbestos in
 12 other buildings over the past twenty years;
 13 is that right?
 14 A. Yes.
 15 Q. What different types of testing did
 16 you conduct in that time period?
 17 A. What do you mean by "different
 18 types of testing"?
 19 Q. I think we talked about air
 20 testing.
 21 Do you recall air testing?
 22 A. Yes.
 23 Q. You have conducted air testing in
 24 buildings since the mid 1980s; is that right?
 25 A. Yes.

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1 Franco Seif
 2 Q. And have you done bulk sample
 3 analysis?
 4 A. Yes.
 5 Q. How long have you been doing that?
 6 A. Same period.
 7 Q. Are there other types of testing
 8 relating to asbestos that you can think of?
 9 A. Yes.
 10 Q. What other testing?
 11 A. We've done surface dust sampling.
 12 Q. Okay.
 13 When did you start doing that?
 14 A. In the early '90s it became more
 15 prevalent to do dust sampling.
 16 Q. What does that entail?
 17 A. It entails vacuuming, in a simple
 18 term, dust from a surface into a filter, into
 19 a cassette that contains a filter, and then
 20 into a cassette -- I'm sorry. Vacuuming a
 21 known surface area into a cassette that has a
 22 filter, and then taking that cassette to the
 23 lab for analysis to find the concentrations
 24 of asbestos fibers.
 25 Q. Any other testing that you can

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1 Franco Seif
 2 think of?
 3 A. Not at this time.
 4 Q. Okay.
 5 Mr. Seif, I'm going to refer you to
 6 Page 3 of your report. You can take the clip
 7 off, if it helps.
 8 And on Page 3, the second sentence,
 9 I believe, says, "The case involves claims
 10 for damages filed by DGS against W.R. Grace
 11 as the manufacturer of known asbestos-
 12 containing construction products that are
 13 present in sixteen DGS building sites."
 14 Do you understand that there are
 15 sixteen DGS building sites that are at issue
 16 in this case?
 17 A. Yes.
 18 Q. It later states that you inspected
 19 six building sites.
 20 Why only six of the sixteen?
 21 A. Due to the lack of time between the
 22 date of the assignment and the date that the
 23 report was due, we had to select these sites
 24 so I would have the time to visit them and be
 25 able to produce report.

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2 Q. How did you select the six sites
3 that you visited?

4 A. I did not select them.

5 Q. Who selected them?

6 A. I assume the State. They were sent
7 to me, you know...

8 Q. Do you know why those six buildings
9 were chosen over the other ten?

10 A. Yes.

11 Q. Why?

12 A. Due to the value of the claim of
13 these buildings.

14 Q. Do you have any information
15 regarding the other ten buildings that
16 weren't inspected?

17 MR. MANDELSBERG: Objection.

18 A. What do you mean by information?

19 Q. Did you inspect those buildings
20 subsequent to this report?

21 A. No.

22 Q. Did you come to any conclusion on
23 those buildings at any time?

24 A. Other than if they contain the same
25 type of material than from just an expert

1 Franco Seif

2 What is the basis for the
3 statement there that it is WR Grace materials
4 that are present in these buildings?

5 A. Based on the MVA report.

6 Q. And solely on the MVA report?

7 A. Yes.

8 Q. You didn't do any independent
9 analysis to determine that?

10 A. No.

11 Q. And then another purpose that you
12 list here, purpose "C," which is, "Assess the
13 condition and the potential exposure hazard
14 to asbestos of the building occupants and
15 maintenance personnel at the sites."

16 What did you do to that?

17 A. Assessing the condition is
18 practically based on visual observations.

19 Q. What about assessing the potential
20 asbestos exposure hazard, how would you do
21 that?

22 A. The potential, that's why I have
23 the word potential there. Once I determined,
24 or I observed the condition of the material
25 and its friability, since I did not do an

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1 Franco Seif

2 opinion, but they may have the same
3 conditions, the same type of material as
4 those other buildings.

5 Q. But you don't know, sitting here
6 today, what type of material are contained in
7 those buildings, do you?

8 A. I presume I reviewed the MVA
9 reports which has the same type of analysis
10 as the other ones. That clarifies that point
11 for me.

12 Q. Other than the information
13 contained in the MVA reports for those
14 buildings, do you have any other information
15 regarding any alleged asbestos in those
16 buildings?

17 A. No.

18 Q. You did not prepare those MVA
19 reports; is that correct?

20 A. Correct.

21 Q. In the second paragraph, in the
22 introduction, you state that, "The purpose of
23 my retention was to inspect areas of the DGS
24 buildings where these WR Grace materials are
25 present."

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2 exposure assessment, the potential for
3 exposure hazard becomes, if the material is
4 friable and it is not in good damage and the
5 situation that I saw in some of these
6 buildings gave me the inclination that there
7 could be a potential for exposure in these
8 buildings.

9 Q. So you attempted to assess the
10 presence of asbestos and the condition of
11 asbestos; is that correct?

12 A. Correct.

13 Q. Mr. Seif, why is asbestos
14 hazardous?

15 A. Although this is probably more to a
16 toxicologist but, you know, health hazard is
17 one of the first items that we study once you
18 get into this industry, and based on
19 toxicology reports that asbestos causes
20 asbestosis, it cause us mesothelioma, it
21 causes lung cancer, and other organs also can
22 be effected by the exposure to the asbestos
23 fibers.

24 Q. Do you understand that exposure to
25 be through inhalation of asbestos fibers?

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1 Franco Seif

2 A. Yes.

3 Q. But you didn't assess inhalation
4 risks with respect this report, did you?

5 A. No.

6 Q. How would you do that?

7 A. We would have conducted an exposure
8 assessment, which is through the collection
9 of air samples over certain period of time in
10 each building.

11 Q. How long has the asbestos been in
12 these buildings?

13 MR. MANDELSBERG: Objection.

14 A. I'm not aware.

15 Q. Would it surprise you to know that
16 it has been in some of these buildings as
17 early as 1956?

18 MR. MANDELSBERG: Objection.

19 A. No.

20 Q. You don't have any information one
21 way or the other?

22 A. I do not have any information.

23 Q. Okay.

24 In Paragraph 3.1, in connection
25 with the Fairview Development Center, the

1 Franco Seif

2 A. Because I taken the sample, I
3 realize that I'm touching fireproofing
4 directly.

5 Q. Just by taking the samples --

6 A. Yes.

7 Q. How can you differentiate between
8 the two?

9 A. There was a very thin layer of
10 paint on the fireproofing, and then it was
11 the -- it was the fireproofing, which was
12 very surprising to me because I have never
13 seen this application before.

14 Q. I guess, how would you determine
15 just by touching it that's it fireproofing as
16 opposed to acoustical plaster?

17 A. It was not just by touching it.

18 Q. Okay.

19 A. I was taking a sample and I
20 realized that directly above the thin layer
21 of paint I am touching fireproofing directly,
22 which was very loose, very -- fell directly
23 into the container that I was taking the
24 sample from, and when I took the sample to
25 the lab, I asked the lab analyst, you know,

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2 second paragraph there describes material
3 that were you looking at.

4 In the second sentence is says, "In
5 general, the ceiling system is comprised of
6 gypsum button-board supporting layers of
7 steel wire lath, spray-applied fireproofing,
8 and paint. The fireproofing is exposed to
9 the occupied space of the building."

10 Do you see that reference?

11 A. Yes.

12 Q. Now, in that building you're
13 talking really about acoustical plaster, not
14 fireproofing; is that correct?

15 A. That's why I initially when I
16 looked it, that's what I thought. It looked
17 like acoustical plaster, and to my surprise
18 it was not acoustical plaster, but it
19 appeared that after painting the surface for
20 such a long time, it had -- it gave the
21 impression that it was acoustical plaster.

22 Q. It was fireproofing on the ceiling?

23 A. Yes.

24 Q. How you could tell it was
25 fireproofing rather than acoustical plaster?

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2 to see if that first layer that's, you know,
3 if there is asbestos in that first layer,
4 what is that first layer, and we realized
5 that it was just paint. There was no plaster
6 application there.

7 Q. Right, but underneath paint you're
8 telling me that there was fireproofing rather
9 than acoustical plaster; is that correct?

10 A. Correct.

11 Q. Your conclusion in that regard is
12 based on your visual observations and in
13 touching the material?

14 MR. MANDELSBERG: Objection.

15 A. Visual observation, the color of
16 the material. From my experience, gypsum
17 plaster applied on ceiling surfaces, normally
18 it's all consistent, it's white because
19 gypsum is white, or dark tan or -- I'm sorry.
20 White or offwhite color, and this one was
21 not. This one was consistent with what I've
22 seen in buildings, what looks like
23 fireproofing. It is that dark tan color, as
24 I recall.

25 Q. Other than the dark tan color, was

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1 Franco Seif
 2 there anything else that would indicate to
 3 you that this was fireproofing rather than
 4 acoustical plaster?
 5 A. Yes.
 6 Q. What?
 7 A. The consistency and the texture of
 8 the material. Again, from my experience
 9 taking acoustic plaster samples you see a lot
 10 of round dusty type particles, and this one
 11 was not.
 12 Q. Okay.
 13 You said here that this material
 14 was painted; is that correct?
 15 A. Yes.
 16 Q. Do you understand in your
 17 experience that painting affectively
 18 encapsulates the material?
 19 MR. MANDELSBERG: Objection.
 20 A. It provides some type of
 21 encapsulation, yes. But it's not the proper
 22 way to encapsulate asbestos material.
 23 Q. But it does provide some type of
 24 encapsulation?
 25 MR. MANDELSBERG: Objection.

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 2 A. It should.
 3 Q. You state then on the next page
 4 "that this particular material had been
 5 painted with several layers of paint." It's
 6 the second paragraph. And then you say that
 7 "this was confirmed by maintenance personnel
 8 in the building who stated that the ceiling
 9 surface is painted on a regular basis."
 10 Do you know how often this ceiling
 11 was painted?
 12 A. No.
 13 Q. Did the maintenance personnel tell
 14 you how long that material had been on the
 15 ceiling?
 16 A. No.
 17 Q. Did they tell you that they knew
 18 that there was asbestos in that material?
 19 A. I do not recall if they told me.
 20 Q. And down towards the end of that
 21 page, in Section 3.2, the very last
 22 paragraph, second sentence, you state that,
 23 "The air movement will most likely cause
 24 erosion of the applied fireproofing material
 25 and thus carry asbestos fibers into the

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 2 occupied space of the building."
 3 When in the life of the building
 4 would that occur?
 5 A. Is this for the next building?
 6 Q. Yes, for the Ventura County, and
 7 the language, as you know, is in several of
 8 the different buildings, but just as a
 9 general matter, this idea, this concept of
 10 air movement causing erosion, in your view,
 11 when would that happen in the life of a
 12 building?
 13 A. Any time and every time the HVA
 14 system is running there is that likelihood
 15 that there is air erosion.
 16 Q. Would you expect HVA system to
 17 start running around the time that the
 18 building construction has been completed?
 19 A. Definitely before it is occupied.
 20 Q. Which normally would be within the
 21 first year after construction, would you say?
 22 A. Maybe.
 23 Q. Okay.
 24 When did you first understand this
 25 to be the case?

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 2 MR. MANDELSBERG: Objection.
 3 Q. I apologize. That is a poorly
 4 worded question.
 5 When did you develop the opinion
 6 that air movement could cause erosion to the
 7 applied fireproofing material?
 8 A. From the time I developed some
 9 logic about air erosion. It doesn't have to
 10 — the speed of air causes erosion on any
 11 material.
 12 Q. Would you say that's an opinion
 13 that you've held for the past almost 20
 14 years?
 15 A. Yes.
 16 Q. Have you advised building owners
 17 over the past twenty years of this opinion?
 18 A. Yes.
 19 Q. And if you wanted to know whether
 20 that air movement had actually eroded
 21 materials, would you take air samples?
 22 A. Well, taking air samples have to be
 23 a part of taking air samples. I'm not sure
 24 if I'm being clear or not because if I take
 25 an air sample today in this room, as part of

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1 Franco Seif
 2 determining -- assuming there is fireproofing
 3 up in this decking here, and we've taken air
 4 samples yesterday, the air sample really
 5 constitutes the volume of air that I collect
 6 in the period of time that I collected the
 7 samples. If I take it for one hour, it is
 8 for this one hour. If in this one hour there
 9 are no fibers that are being dislodged or
 10 released into this office space, then the air
 11 sample will show that there are no fibers
 12 released into this office space, but it
 13 doesn't mean that is the case at all times.
 14 That's why we say, you know, it is a
 15 potential. There is a potential for fiber
 16 release, there is a potential for hazard, and
 17 then at that time it would depend on the
 18 occupants of this office to say, well, we
 19 know there is asbestos there, but we're not
 20 going to worry about it because we hired
 21 somebody who took an air sample for one hour
 22 and didn't find any asbestos, but once they
 23 know the importance of having asbestos in the
 24 office space, and that fibers could be
 25 released any time, any movement, and that any

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1 Franco Seif
 2 And you said before, you used the
 3 words in your report potential of hazard.
 4 How would you determine whether
 5 that potential became an actuality?
 6 A. If somebody becomes sick maybe or,
 7 you know...
 8 Q. Did you do any air sample testing
 9 in any of these buildings?
 10 A. No.
 11 Q. Are you aware of any air sample
 12 testing that has been done on these
 13 buildings?
 14 A. I'm not aware.
 15 Q. You don't know of any air sample
 16 testing then that would exceed ETA levels in
 17 these buildings?
 18 A. I'm not aware.
 19 Q. You don't know of any air sample
 20 testing that would exceed OSHA levels in
 21 these building?
 22 A. I don't know.
 23 Q. Do you know of any scientific
 24 studies that have shown that air movement in
 25 the air space between the suspended ceiling

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1 Franco Seif
 2 time, any moment could be when nobody has
 3 taken air samples, you know, then it becomes
 4 an issue.
 5 Q. Okay, and my question was a little
 6 bit different.
 7 I just want to know, if you wanted
 8 to test the theory that air movement from the
 9 HVAC was causing erosion to the fireproofing,
 10 would one of the ways to test that be through
 11 air sampling, generally?
 12 A. Not necessarily.
 13 Q. How would you test that theory?
 14 A. The theory is tested -- the theory
 15 exists based on physics, not based on air
 16 tests. If there is air moving around
 17 material, especially if the material is
 18 friable, then that air will begin to erode
 19 that material and carries with it whatever
 20 that material contains, whether it's silica
 21 or whether it's asbestos fibers, or whether
 22 it's any other cellulose-based fibers, the
 23 air erodes at the material. It is based on
 24 physics.
 25 Q. Okay.

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1 Franco Seif
 2 and the fireproofing actually causes erosion
 3 of the applied fireproofing material and
 4 carries asbestos fiber into the occupied
 5 space?
 6 A. Any studies?
 7 Q. Uh-huh.
 8 A. I'm not aware of any studies.
 9 Q. If we can move to the next page,
 10 it's 3.3. We're now on Office Building
 11 Number 8 on Page 5 of your report.
 12 It says in the very first paragraph
 13 that this was an 18-story structural steel
 14 building that was vacant.
 15 Do you know why the building was
 16 vacant?
 17 A. Yes.
 18 Q. Why?
 19 A. Because they were removing all the
 20 fireproofing from the building.
 21 Q. How long had the building been
 22 vacant?
 23 A. I'm not aware.
 24 Q. In the fourth paragraph there you
 25 talk again about the HVAC system, and then

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the fourth sentence down you say, "Vibration could be caused by several factors, such as moving furniture or heavy office equipment and that this may exacerbate the exposure to asbestos in the occupied space."

A. Yes.

Q. When in the life of the building would vibrations start to occur?

A. At the time people begin to walk on the floor above that -- above where the surface is applied.

Q. So that would be as soon as the building is occupied?

A. Yes.

Q. This opinion that vibration can exacerbate exposure, have you held that opinion over the course of the last twenty years?

A. Yes, both of these, the vibration and the air erosion are also taken from the EPA standards.

Q. Have you advised building owners about this vibration issue over the past twenty years?

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Q. The very last paragraph on the same page, it's on Page 5, starting with "Furthermore."

MR. MANDELSBERG: The first sentence of the last paragraph.

A. Okay.

"Furthermore, the --

Q. "-- presence of friable fireproofing material and the evidence of fireproofing debris that settle on a ceiling tile indicates that the potential of exposure to asbestos is high for maintenance personnel when conducting activities above the suspended ceiling."

Do you see that?

A. Yes, now I see.

Q. Now, that debris there, did you test the asbestos content of that debris?

A. In some instances, we tested debris, and just for verification purposes, but in most of the time, you could see that the debris settled on the ceiling material is consistent in texture and appearance to the fireproofing that's on the decking.

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A. Yes.

Q. Have you seen any scientific studies that establish that vibrations causes exacerbation of exposure to the occupied areas of asbestos fibers?

A. I haven't seen scientific studies. I have seen evidence.

Q. You have seen no formal studies, though, that would establish it?

A. No, I have not.

Q. In the next paragraph, the very first sentence says, "The presence of friable fireproofing material and the evidence of fireproofing debris that settled on the ceiling tile indicates that the potential of exposure to asbestos is high for maintenance personnel when conducting activities above the suspended ceiling."

My first question for you is, is the debris that you're talking about there, did you test the asbestos content of that debris?

A. I'm sorry. Could you -- I didn't see where --

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Q. Did you find respirable fibers in the debris of asbestos?

A. I'm sorry? Could you repeat that?

Q. Did you find respirable asbestos fibers in that debris.

A. We didn't test for respirable fibers.

Q. So you were just confirming, again, the presence of potentially asbestos containing materials?

A. Yes.

Q. And you talk about this exposure to asbestos when personnel are conducting activities above the suspended ceiling.

Do you know how often maintenance workers would conduct activities above the suspended ceiling in this building?

A. No.

Q. Did you look at any building logs or anything along that line to determine when maintenance was going on there?

A. No.

Q. Do you know what the exposure level would be when the material was accessed?

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2 A. No.

3 Q. When you talk about normal routine
4 activities in maintenance activities, when,
5 again, in the life of the building would
6 those types of activities first start to take
7 place?

8 A. As soon as maintenance is needed on
9 any level inside of the building.

10 Q. In your experience, would that be
11 early on in the life of the building?

12 MR. MANDELSBERG: Objection.

13 A. It would be speculative, so I
14 probably should not comment on it.

15 Q. Okay.

16 The last sentence of that paragraph
17 says that these areas should be cleaned on a
18 regular basis because of the potential for
19 asbestos exposure.

20 Would you recommend dry rag dusting
21 as part of that cleaning?

22 A. No.

23 Q. Why not?

24 A. That would be an activity that will
25 cause elevated levels of fibers to become

1 Franco Seif

2 the tender of the fibers airborne.

3 Q. You've been telling folks that for
4 the last twenty years?

5 A. Yes.

6 Q. Okay.

7 If we can turn to Page 6 of your
8 report, 3.4, in the discussion of Office
9 Building Number 9, are you with me there?

10 A. Yes.

11 Q. The very last sentence of that
12 first paragraph says, "The ceiling tiles in
13 the building also contains asbestos product."

14 Do you see that?

15 A. The last paragraph -- I'm sorry.

16 Q. The first paragraph, the last
17 sentence, Section 3.4 --

18 A. Yes, yes.

19 Q. Okay.

20 -- are the ceiling tiles in this
21 building releasing asbestos fibers?

22 A. If you try to lift them up, there
23 is that potential, yes.

24 Q. Other than fireproofing, acoustical
25 plasters, and ceiling tile, did you look for

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1 Franco Seif

2 airborne.

3 Q. Have you recommended not doing that
4 to building owners?

5 A. Sure.

6 Q. How long have you been making those
7 sorts of recommendations?

8 A. Since I've learned that you do not
9 dry sweep asbestos containing material.

10 Q. Was that roughly in 1987?

11 A. Yes.

12 Q. How about dry brushing the
13 material?

14 A. No.

15 Q. Same response, wouldn't recommend
16 it?

17 A. Yes.

18 Q. Haven't recommended it in the last
19 twenty years?

20 A. Yes.

21 Q. How about blowing the material off
22 surfaces with an aerosol can of air spray?

23 A. It's not recommended.

24 Q. Why not?

25 A. Again, for the same reason, just

1 Franco Seif

2 any other asbestos containing materials in
3 these buildings?

4 A. I did not attempt to, no.

5 Q. Turn to Page 8 of your report, in
6 Section 4, the expert opinion section, in
7 4.2, it says, "It is common for friable
8 applied or sprayed-on fireproofing material
9 to dislodge and settle on surfaces below it,
10 such as suspended ceiling material or utility
11 component."

12 You've seen that sort of settling
13 in the buildings that you've looked at in the
14 last twenty years or so; haven't you?

15 MR. MANDELSBERG: Objection.

16 A. Yes.

17 Q. Is this sort of thing in virtually
18 any building that has fireproofing?

19 A. Not necessarily, but it's not
20 uncommon.

21 Q. Have you seen buildings where there
22 was no debris, but there was fireproofing?

23 A. I really cannot recollect, but in
24 most cases I could tell, or I remember in
25 most cases that I've been involved with that

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1 Franco Seif
2 there has been some fireproofing at one point
3 or the other got dislodged.

4 Q. In Section 4.4, the very last
5 sentence says, "Accidental contact is a
6 concern for exposure to asbestos," what do
7 you mean by accidental contact?

8 A. Walking, working in spaces that
9 contain -- that has materials that contains
10 asbestos, where you are not attempting to
11 work in the material that contains asbestos
12 but you are working next to it where
13 accidentally you brush against that material,
14 especially if it is friable, as it is in this
15 case, or you slip and touch that material by
16 mistake, that type, or carrying a ladder such
17 as in that first building that we discussed,
18 the one down in Costa Mesa, if you're
19 carrying a ladder and accidentally you hit
20 the ceiling, that's right there you can cause
21 that material to become dislodged.

22 Q. You're not suggesting, though, that
23 touching the material is physically
24 dangerous, the touching, the contact in and
25 of itself, are you?

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2 A. Touching means like laying your
3 hand softly and just removing it?

4 Q. Sure.

5 A. I don't know if that could be a
6 potential for exposure.

7 Q. I just want to make sure that I
8 understand what you're saying here.

9 Is what you're saying that contact
10 is a concern because it may disturb the
11 material and therefore cause release of
12 respirable fibers into the air?

13 A. Contact, yes.

14 Q. But you're not saying that if I
15 touch asbestos, I might get sick from the
16 contact between of my finger and the
17 asbestos?

18 A. If you touch friable material and
19 there are -- that happens to be some fibers
20 sticking out and you just touch it and it
21 gets dislodged, then there's the potential of
22 you being exposed to that fiber that got
23 dislodged.

24 Q. In terms of respiration of the
25 fiber?

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1 Franco Seif

2 A. In terms of having a fiber released
3 into the air that you could be exposed to.

4 Q. But the concern is that you're
5 going to inhale it; is that correct?

6 A. The concern is that there's a fiber
7 and you're inhaling, of course.

8 Q. Right.

9 It's not a concern that if I touch
10 a fiber I would get sick. It's a concern if
11 I inhale a fiber, I might get sick?

12 A. If it gets dislodged after you
13 touch it.

14 Q. Right, I understand. I just want
15 to make sure that I'm clear on it.

16 On 4.8 it says, "The ceiling tile
17 in office buildings 8, 9, Subsection 4.3 and
18 4.4 is also friable." And that's the ceiling
19 tile we talked about before.

20 And it's your opinion that when
21 that tile is moved, it is releasing asbestos
22 fiber; is that correct?

23 A. Yes.

24 Q. Do you believe that maintenance
25 workers may be moving those tiles on a

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1 Franco Seif

2 routine basis?

3 A. If they have to do maintenance
4 above the ceiling, they have to remove those
5 ceiling tiles.

6 Q. Are you aware that W.R. Grace did
7 not manufacture ceiling tiles?

8 A. I'm not aware.

9 Q. Paragraph 4.11 on the next page,
10 Page 9, it says that your expert opinion is
11 that friable fireproofing material should be
12 abated, and when you talk about removal,
13 encapsulation and enclosure, and you seem to
14 indicate that in your expert opinion that
15 material should be removed; is that correct?

16 A. Yes.

17 Q. Why do you conclude that the
18 material should be removed?

19 A. When it comes to friable material,
20 for the last twenty years, the recommendation
21 of removal, enclosure and encapsulation has
22 always been there because that's what the EPA
23 recommends, but when material is friable,
24 removal is the only solution that in the long
25 term provides owners with the security that

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1 Franco Seif
 2 there is no potential exposure to asbestos
 3 anymore in the building, while the other
 4 solutions will always give that -- the
 5 indication that there could be potential
 6 exposure to the fibers, whether you
 7 encapsulate it or you enclose it, there's
 8 always that risk that you could exposure to
 9 asbestos fibers.
 10 Q. So is it your opinion that any
 11 friable asbestos containing material should
 12 be removed from a building?
 13 A. Yes.
 14 Q. And that opinion wouldn't change
 15 one way or the other whether you had air
 16 sample testing that fell below EPA or OSHA
 17 guidelines?
 18 A. Yes.
 19 Q. It would change or it would not
 20 change?
 21 A. My opinion would not change.
 22 Q. Are you familiar with the EPA's
 23 green book message?
 24 A. Yes.
 25 Q. Is that message that asbestos

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1 Franco Seif
 2 Q. Mr. Seif, can you tell me, do you
 3 know of anyone who has gotten sick as a
 4 result of exposure to asbestos in any of
 5 these buildings?
 6 A. In these buildings, no.
 7 MS. REA: Can we take a
 8 brief break.
 9 (Whereupon, a recess was
 10 taken at this time.)
 11 MS. REA: Mr. Seif, thank
 12 you very much.
 13 I have no more questions
 14 today. I don't know if your
 15 counsel has any that he would like
 16 to follow-up on.
 17 MR. MANDELSBERG: We don't
 18 have any questions.
 19 Thank you.
 20 MS. REA: Would you like to
 21 read and sign?
 22 MR. MANDELSBERG: Yes, we
 23 want an original of the transcript
 24 which we ask you send to us
 25 directly and we will arrange to

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1 Franco Seif
 2 should be maintained in place?
 3 MR. MANDELSBERG: Objection.
 4 A. There are -- it's one of the
 5 recommendations. Operations and maintenance
 6 -- in the green book, in the purple book, and
 7 even with the EPA, operations and maintenance
 8 is an alternative, but it is also a temporary
 9 alternative.
 10 Q. Mr. Seif, we've talked a lot about
 11 your report today, and I just want to make
 12 sure that I'm clear what it was designed to
 13 do and what I believe you're saying that
 14 you're doing here.
 15 Would you agree with me that what
 16 your report purports to do is to confirm the
 17 presence of asbestos in the building and the
 18 condition of that asbestos?
 19 MR. MANDELSBERG: Objection.
 20 A: And the friability situation.
 21 Q. It does not purport to do a hazard
 22 assessment?
 23 A. No.
 24 MR. MANDELSBERG: Objection.
 25 Asked and answered.

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1 Franco Seif
 2 have Mr. Seif read it, sign it
 3 before a notary and return it to
 4 counsel.
 5 -o0o-
 6 (Whereupon, the examination
 7 of FRANCO SEIF was concluded at
 8 12:30 p.m.)
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FRANCO SEIF

15 Subscribed and sworn to
 16 before me this ____ day
 17 of _____, 2007.

20 NOTARY PUBLIC

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2 ----- INDEX -----
3

4 WITNESS EXAMINATION BY PAGE
5 FRANCO SEIF MS. REA 5
6
7

8 ----- EXHIBITS -----
9

10 EXHIBIT FOR ID.
11 1 Document 7
12 2 Documents 11
13 3 Report 27
14

15 (Exhibits 1 and 3 retained by reporter.)
16 -----
17
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1
2 CERTIFICATE
3

4 STATE OF NEW YORK)
5 : ss.
6 COUNTY OF QUEENS)

7 I, AYDIL M. TORRES, a Notary Public
8 within and for the State of New York, do
9 hereby certify:

10 That FRANCO SEIF, the witness whose
11 deposition is hereinbefore set forth, was
12 duly sworn by me and that such deposition is
13 a true record of the testimony given by the
14 witness.

15 I further certify that I am not
16 related to any of the parties to this action
17 by blood or marriage, and that I am in no way
18 interested in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 5th day of April, 2007.
21
22
23
24
25

AYDIL M. TORRES